

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA, et al.,

Plaintiffs,

vs.

WAYNE COUNTY, MICHIGAN, et al.,

Defendants.

Civil Action No.  
87-70992  
HON. JOHN FEIKENS

COUZENS, LANSKY, FEALK, ELLIS, ROEDER & LAZAR, P.C.

BRUCE J. LAZAR (P16475)  
COUZENS, LANSKY, FEALK, ELLIS,  
ROEDER & LAZAR, P.C.  
Attorneys for Wayne County, Michigan  
39395 W. Twelve Mile Road, Suite 200  
Farmington Hills, MI 48331  
(248) 489-8600

DAVID A. BOWER (P38004)  
Attorney for City of River Rouge  
10454 West Jefferson Ave.  
River Rouge, MI 48218-1334  
(313) 842-1292

MOTION FOR ORDER TO  
SHOW CAUSE AND EQUITABLE RELIEF

NOW COMES the Charter County of Wayne, Michigan, by and through its attorneys, COUZENS, LANSKY, FEALK, ELLIS, ROEDER & LAZAR, P.C., and moves that this Honorable Court issue an Order To Show Cause to the cities of River Rouge, Michigan and Ecorse, Michigan as to why they should not be held in contempt for violating this Court's Orders and why funds being held by the Wayne County Treasurer should not be applied to their accumulated Judgment debt, stating as follows:

1. The Court entered its Consent Decree in this action on May 12, 1994, which Consent Decree required certain improvements

to be made to Local Sewer Systems (as defined in the Consent Decree) which are tributary to the Downriver Sewage Disposal System which is operated by Wayne County under contract with, and for the benefit of, certain Downriver Communities;

2. Defendants Wayne County and the cities of River Rouge and Ecorse are all parties to this action and bound by the terms of the Consent Decree.

RIVER ROUGE

3. The City of River Rouge and Wayne County determined that it was necessary for the public health, safety and welfare of the City to acquire, construct and finance certain combined sewer overflow control facilities in the City, pursuant to the requirements of the City's National Pollution Discharge Elimination System Permit No. MI0028819 and in furtherance of the requirements of the 1994 Financing Plan and Final Judgment re: 1994 Court-Ordered Improvements (the "1994 Financing Plan") entered in this action on March 14, 1994 and the Consent Decree entered in this action on May 12, 1994, as amended (the "Consent Decree") and the Downriver Sewage Disposal System Contract between Wayne and the City and other local municipalities, dated March 1, 1962, as amended, and further as part of the Rouge River National Wet Weather Demonstration Program being administered by Wayne (the "Project").

4. Wayne and the City entered into a Contract Providing for Issuance of Wayne County Combined Sewer Overflow (City of River

COUZENS, LANSKY, FEALK, ELLIS, ROEDER & LAZAR, P.C.

Rouge) Bonds dated August 30, 1995 (the "Agreement"), a copy of which is attached hereto as Exhibit A and incorporated by reference, as provided by Act 185, Public Acts of Michigan, 1957, as amended ("Act 185"), pursuant to which Wayne County agreed to issue its bonds to provide funds in the amount of not to exceed \$24,500,000 to pay a portion of the cost of the Project through the issuance of bonds.

5. Pursuant to the Agreement, the County issued its \$5,860,000 Wayne County Combined Sewer Overflow (City of River Rouge) Bonds, Series A, dated September 28, 1995 (the "Series A Bonds") and its \$16,300,000 Wayne County Combined Sewer Overflow (City of River Rouge) Bonds, Series B, dated December 15, 1995 (the "Series B Bonds", and together with the Series A Bonds, the "Bonds").

6. Section 8 of the Agreement provides that the principal amount of the Bonds shall be paid to Wayne County by the City in annual principal installments, plus interest and other expenses as provided in the Agreement, thirty days before each principal due date as provided in the Bond Authorizing Resolution and Notice of Sale relating to the Bonds. Section 8 of the Agreement further provides that the City shall pay to Wayne County in addition to such principal installments, thirty days before the interest and premium due dates, as accrued interest on the principal amount remaining unpaid and the premium on the bonds, if any, an amount sufficient to pay all interest and premium, if any, due on the next succeeding interest payment date as provided in the Bond

COUZENS, LANSKY, FEALK, ELLIS, ROEDER &amp; LAZAR, P.C.

Authorizing Resolution and Notice of Sale relating to the Bonds. Section 8 of the Agreement also provides that as Wayne County is billed by the paying agent for the Bonds for its services as paying agent and transfer agent for the Bonds, and as other costs and expenses accrue to Wayne County for the handling of the payments made by the City, or from other actions taken in connection with the Project or to meet costs of constructing the Project, the City shall promptly remit to Wayne sufficient funds to meet such fees and other costs and expenses upon notification by Wayne of such amounts.

7. River Rouge failed to pay Wayne County in accordance with its obligations, and as a result in September, 2001 this Court entered a Stipulated Consent Order ordering that River Rouge to pay the obligations owed in cash by the dates set forth in the Agreement or in default thereof Wayne County could file a certified copy of the Judgment with the River Rouge City Assessor who was then required to place the Judgment on the tax rolls for collection and payment.

8. The City of River Rouge did not pay the Judgment amount by the due date, and upon information and belief, has not properly placed the Judgment on its tax rolls for collection and payment in contravention of this Court's Order.

9. As of October 31, 2003, the principal amount of the Judgment outstanding is \$3,707,939.55, plus interest thereon.

10. In addition, the City of River Rouge is indebted to the Wayne County Department of Public Services for additional amounts which remain unpaid and owing.

11. The Wayne County Treasurer is scheduled to receive certain delinquent tax payments from National Steel to the City of River Rouge in the amount of \$2,885,246.59.

12. The only effective means for this Court to enforce its Judgment is to order the Wayne County Treasurer to apply said \$2,885,939.75 of the funds received on behalf of River Rouge to the Judgment debt owed to Wayne County.

ECORSE

13. The City of Ecorse is currently indebted to Wayne County for payments due under this Court's Consent Order.

14. Ecorse has failed to make the required payments thereunder and is also in contempt of this Court's Order.

15. As of October 31, 2003, the principal amount of the Judgment outstanding is \$711,175.83, plus interest thereon.

16. The Wayne County Treasurer has received or is scheduled to receive delinquent tax payments owed to Ecorse in the amount of \$2,500,728.18.

17. The only effective means for this Court to enforce its Judgment is to order the Wayne County Treasurer to apply \$711,175.83 of the funds received on behalf of Ecorse to the Judgment debt owed to Wayne County.

WHEREFORE, Wayne County requests the following relief:

A. Issuance of an Order To Show Cause as to why the cities of River Rouge and Ecorse shall not be held in contempt for

failing to make the payments required under the subject contracts and Consent Judgments entered in this Court.

B. Issuance of a Temporary Restraining Order restraining and enjoining Raymond J. Wojtowicz, Wayne County Treasurer, from disbursing any funds received from National Steel to either the City of River Rouge or the City of Ecorse, pending hearing on the Order To Show Cause.

C. Issuance of an Order holding the cities of River Rouge and Ecorse in contempt of this Court's Orders for failing to pay or to properly take the required actions to pay the outstanding Judgments.

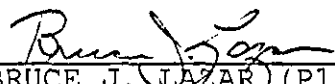
D. Issuance of an Order directing the Wayne County Treasurer to apply such monies received from National Steel Corporation for or on behalf of River Rouge and Ecorse to their respective Judgments and to remit any balance to each City with an accounting of the application of the funds.

E. Such other and further relief as the Court may deem suitable and necessary.

Respectfully submitted,

COUZENS, LANSKY, FEALK, ELLIS,  
ROEDER & LAZAR, P.C.  
Attorneys for Wayne County

By:

  
BRUCE J. LAZAR (P16475)  
39395 W. Twelve Mile, Suite 200  
Farmington Hills, MI 48331  
(248) 489-8600

Dated: November 3, 2003

O:\JLB\Bruce\County of Wayne\River Rouge\Motion

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA, et al.,

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DAVID A. BOWER (P38004)  
Attorney for City of River Rouge  
10454 West Jefferson Ave.  
River Rouge, MI 48218-1334  
(313) 842-1292

**WAYNE COUNTY'S BRIEF IN SUPPORT OF MOTION  
FOR ORDER TO SHOW CAUSE AND OTHER EQUITABLE RELIEF**

The cities of River Rouge and Ecorse have been directed by this Court to make timely payments on certain bond debt and operating and maintenance obligations they assumed in the contracts with the County of Wayne and surrounding communities. Both River Rouge and Ecorse have admittedly failed to fulfill those obligations in a timely manner, resulting in entry of Consent Judgments directing that they either make the required payments from unused operating revenues or that they impose judgment levies sufficient to meet their obligations.

COUZENS, LANSKY, FEALK, ELLIS, ROEDER & LAZAR, P.C.

RECEIVED  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION  
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Due in whole or in part to the bankruptcy of National Steel Corporation, a major taxpayer in both communities, they have failed to comply with the terms of the Consent Judgments entered by this Court.

According to the books and records of Wayne County, the City of River Rouge owes or is obligated to pay by February, 2004 the sum of \$3,707,939.55, of which \$2,102,799.99 has been delinquent for some time, as more fully set forth on Exhibit A.

According the books and records of Wayne County, the City of Ecorse owes or is obligated to pay by February, 2004 the sum of \$711,175.83, of which \$454,298.22 has been delinquent for some time (Exhibit A).

The Wayne County Treasurer has or is about to receive in excess of Five Million (\$5,000,000.00) Dollars payable to River Rouge and Ecorse from National Steel. Unless, Wayne County can retain and apply \$2,885,246.59 due River Rouge and \$711,175.83 of funds due to Ecorse, Wayne County and the other constituent communities shall be deprived of the right to collect monies owing on valid judgments.

Pursuant to Federal Rules of Civil Procedure 70, this Court has the authority to issue a writ of attachment or sequestration against property of a party who has failed to comply with an order of the Court. The Court may also adjudge the party in contempt or may enter a judgment divesting the title of any party to specific property in the district and vesting it in others.



Wayne County is requesting that this Court exercise its authority to enforce its Judgments and enter an Order directing the Wayne County Treasurer to retain and apply the funds in his hands toward payment of the outstanding amounts owed by River Rouge and Ecorse respectively to Wayne County.

Respectfully submitted,

COUZENS, LANSKY, FEALK, ELLIS,  
ROEDER & LAZAR, P.C.  
Attorneys for Wayne County

By: Bruce J. Lazar  
BRUCE J. LAZAR (P16475)  
39395 W. Twelve Mile, Suite 200  
Farmington Hills, MI 48331  
(248) 489-8600

Dated: November 3, 2003

O:\JLB\Bruce\County of Wayne\River Rouge\Motion Brief

COUZENS, LANSKY, FEALK, ELLIS, ROEDER & LAZAR, P.C.

WAYNE COUNTY DEPT OF ENVIRONMENT  
SUMMARY OF OUTSTANDING INVOICES AS OF AUGUST 31, 2003  
CITIES OF RIVER ROUGE AND ECORSE

	<u>Debt</u>	<u>Operations &amp; Maintenance</u>	<u>Total</u>
<b>RIVER ROUGE</b>			
CSO Basin	\$2,883,626.56	\$42,426.18	\$2,926,052.74
Downriver System	\$258,882.84	\$523,003.97	\$781,886.81
	<u>\$3,142,509.40</u>	<u>\$565,430.15</u>	<u>\$3,707,939.55</u>
<b>ECORSE</b>			
Downriver System	\$256,877.61	\$454,298.22	\$711,175.83
<b>TOTAL</b>	<u>\$3,399,387.01</u>	<u>\$1,019,728.37</u>	<u>\$4,419,115.38</u>

WAYNE COUNTY DEPT OF ENVIRONMENT  
SUMMARY OF OUTSTANDING INVOICES AS OF AUGUST 31, 2003  
CITIES OF RIVER ROUGE AND ECORSE

	Pre-FY 2002	FY 2002	FY 2003	FY 2004	Total
<b>RIVER ROUGE</b>					
CSO - Debt	\$1,470.30	\$0.00	\$1,535,899.34	\$1,346,256.92	\$2,883,626.56
CSO - O&M	\$0.00	\$42,426.18	\$0.00	\$0.00	\$42,426.18
	<u>\$1,470.30</u>	<u>\$42,426.18</u>	<u>\$1,535,899.34</u>	<u>\$1,346,256.92</u>	<u>\$2,926,052.74</u>
 DR - Debt	 \$0.00	 \$0.00	 \$0.00	 \$258,882.84	 \$258,882.84
DR - O&M	\$87,363.34	56742.08	\$378,898.55	\$0.00	\$523,003.97
	<u>\$87,363.34</u>	<u>\$56,742.08</u>	<u>\$378,898.55</u>	<u>\$258,882.84</u>	<u>\$781,886.81</u>
 <b>ECORSE</b>					
DR - Debt	\$0.00	\$0.00	\$0.00	\$256,877.61	\$256,877.61
DR - O&M	\$408,370.30	(\$231.56)	\$46,159.48	\$0.00	\$454,298.22
	<u>\$408,370.30</u>	<u>(\$231.56)</u>	<u>\$46,159.48</u>	<u>\$256,877.61</u>	<u>\$711,175.83</u>
 <b>TOTAL</b>	 \$497,203.94	 \$98,936.70	 \$1,960,957.37	 \$1,862,017.37	 \$4,419,115.38

Statement Number
Statement Date 08/31/03

**COUNTY OF WAYNE**  
 Robert A. Ficano - County Executive  
 600 Randolph St., Detroit, Michigan 48226

**Statement of Account**



Send Remittance to:

Wayne County  
 Department of Environment  
 415 Clifford  
 Detroit, Michigan 48226

Page: 1

Customer:

River Rouge, City of  
 10600 W. Jefferson  
 River Rouge MI 48218

Customer Number

500022

Direct Inquiries to:

Mr. Jim Grezlik  
 Telephone (313) 224-8167

*Department of Environm*

Invoice Number	Due Date	Description of Item, Material, Services or Work	Invoice Amount	Payments Received	Outsta Bala
205575 ✓	01/28/02	F/Y 00-01	1,470.30		
207950 ✓	05/14/02	CALENDAR YR 03 JUDGE/	1,327,202.50	351,101.25-	976
207950 ✓	05/14/02	CALENDAR YR 03 JUDGE/	338,382.98	94,186.49-	244
213357 ✓	11/03/02	OPERATIONS & MAINTENA	20,376.18		20
213357 ✓	11/03/02	RESERVE FOR REPLACEME	11,025.00		1
213357 ✓	11/03/02	RESERVE FOR REPLACEME	11,025.00		1
217128 ✓	07/21/03	INTEREST DUE SEPT 200	23,597.61		2
215287 ✓	03/31/03	CALENDAR YR 04 JUDGE/	983,811.46		98
215287 ✓	03/31/03	CALENDAR YR 04 JUDGE/	362,445.46		36
217561 ✓	08/25/03	PRINCIPAL DUE 9/15/03	250,000.00		25
217561 ✓	08/25/03	INTEREST DUE 9/15/03	42,003.99		4

**Total Current Balance Due \$ 2,926**

Statement Number

Statement Date

08/31/03

## COUNTY OF WAYNE

Robert A. Ficano - County Executive  
600 Randolph St., Detroit, Michigan 48226

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Detroit, Michigan 48226

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River Rouge, City of  
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River Rouge MI 48218

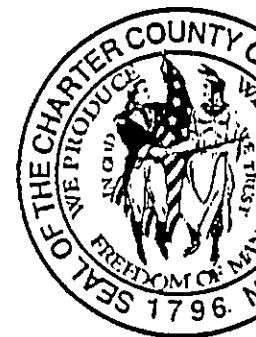
Customer Number

500022

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Telephone (313) 224-8167



Department of Environm

Invoice Number	Due Date	Description of Item, Material, Services or Work	Invoice Amount	Payments Received	Outsta Bala
88668 ✓	04/25/99	NON-RESIDENTIAL USER	83,000.00		83,000.00
90679 ✓	04/25/01	SEWAGE DISPOSAL RATE	4,363.34		4,363.34
210323 ✓	08/09/02	SEWAGE DISPOSAL 6/02	56,742.08		56,742.08
214092 ✓	01/10/03	SEWAGE DISPOSAL 11/02	52,907.37		52,907.37
214402 ✓	02/05/03	EXCESS FLOW 01/03	9,784.00		9,784.00
214718 ✓	02/24/03	EXCESS FLOW FEB 2003	9,784.00		9,784.00
215231 ✓	03/19/03	EXCESS FLOW MAR 2003	9,784.00		9,784.00
215257 ✓	03/20/03	SEWAGE DISPOSAL JAN 0	42,590.30		42,590.30
215579 ✓	04/09/03	SEWAGE DISPOSAL 02/03	37,788.14		37,788.14
215914 ✓	04/25/03	EXCESS FLOW D/R 04/03	9,784.00		9,784.00
216015 ✓	05/07/03	SEWAGE DISPOSAL 3/03	40,516.41		40,516.41
216275 ✓	05/22/03	EXCESS FLOW D/R 5/03	9,784.00		9,784.00
216541 ✓	06/10/03	SEWAGE DISPOSAL 4/03	42,739.59		42,739.59
216727 ✓	06/23/03	EXCESS FLOW 6/03	9,784.00		9,784.00
216761 ✓	06/25/03	SEWAGE DISPOSAL	1,391.99		1,391.99
216761 ✓	06/25/03	SEWAGE DISPOSAL	1,355.15		1,355.15
216762 ✓	06/25/03	NON-RESIDENT FEES	353.62		353.62
216762 ✓	06/25/03	NON-RESIDENT FEES	344.21		344.21
216998 ✓	07/09/03	SEWAGE DISPOSAL 5/03	41,244.83		41,244.83
217233 ✓	07/29/03	EXCESS FLOW D/R JULY	10,166.00		10,166.00
215279 ✓	03/31/03	CALENDAR YR 04 JUDGE/	13,580.00		13,580.00
215279 ✓	03/31/03	CALENDAR YR 04 JUDGE/	245,302.84		245,302.84
217467 ✓	08/20/03	SEWAGE DISPOSAL JUNE	38,630.94		38,630.94
217785 ✓	08/29/03	EXCESS FLOW DR AUGUST	10,166.00		10,166.00

Total Current Balance Due \$ 781

Statement Number

Statement Number

Statement Date

08/31/03

**COUNTY OF WAYNE**  
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Send Remittance to:

Wayne County  
 Department of Environment  
 415 Clifford  
 Detroit, Michigan 48226

Page: 1.

Customer:

Ecorse, City of  
 3869 W. Jefferson  
 Controller's Office  
 Ecorse MI 48229

Customer Number

500006

Direct Inquiries to:

Mr. Jim Grezlik

Telephone (313) 224-8167

*Department of Environment*

Invoice Number	Due Date	Description of Item, Material, Services or Work	Invoice Amount	Payments Received	Outstg Bal
206058 ✓	03/22/02	OVERPMT EX-FLOW#20605	.00	231.56-	
213472 ✓	12/06/02	NON-RESIDENT FEE F/Y	80,173.88		8
213680 ✓	12/18/02	NON-RESIDENT FEES	6,681.16		
213680 ✓	12/18/02		6,681.16		
213680 ✓	12/18/02		6,681.16		
213743 ✓	12/19/02	NON-RESIDENT FEES	321,515.26		32
214220 ✓	01/23/03	NON-RESIDENT FEE 01/0	6,681.16		
215276 ✓	03/31/03	CALENDAR YR 04 JUDGE/	219,532.54		21
215276 ✓	03/31/03	CALENDAR YR 04 JUDGE/	37,345.07		3
217783	08/29/03	EXCESS FLOW DR AUGUST	26,116.00		2

Total Current Balance Due \$ 711

Statement Number

UNITED STATES DISTRICT COURT  
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SOUTHERN DIVISION

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COUZENS, LANSKY, FEALK, ELLIS, ROEDER & LAZAR, P.C.

U.S. DISTRICT COURT  
EAST DISTRICT  
DETROIT

W-13-100-13

AFFIDAVIT OF BARBARA CERDA

STATE OF MICHIGAN )  
 ) SS  
COUNTY OF WAYNE )

BARBARA CERDA, being duly sworn, deposes and says:

1. I am Division Director of the Wayne County Department of Management and Budget, Department of Environment-Finance.

2. I have personal knowledge of the indebtedness owed by the cities of River Rouge and Ecorse to the Wayne County Department of Environment related to and arising out of the Combined Sewer Overflow and Downriver Sewage Disposal System contracts.

COUZENS, LANSKY, FEALK, ELLIS, ROEDER & LAZAR, P.C.

3. According to the books and records of the Department of Environment, the City of River Rouge is presently indebted to Wayne County in the amount of \$3,707,939.55 on both projects and the City of Ecorse is indebted to Wayne County in the amount of \$711,175.83 on the Downriver Sewage Disposal System.

4. Consent Judgments have been entered against both cities requiring that they make the required owed payments of principal, interest and operating costs.

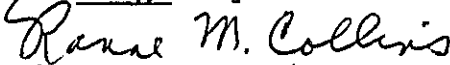
5. Wayne County provided notice of the amounts of the respective Judgment levies to be placed on the tax rolls each year, but River Rouge and Ecorse have not fulfilled their obligations to collect and remit sufficient funds to pay their judgment obligations.

6. I am competent to testify to the amounts currently due and owing from each city if required to do so.

Further, affiant sayeth not.

  
BARBARA CERDA

Subscribed and sworn to before me  
this 3rd day of November, 2003

  
Notary Public, Wayne County, MI  
My commission expires: 11-1-05

RANAE M. COLLINS  
Notary Public, Wayne County, MI  
My Commission Expires Nov. 1, 2005

O:\JLB\Bruce\County of Wayne\River Rouge\Cerda Affidavit



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COUZENS, LANSKY, FEALK, ELLIS, ROEDER & LAZAR, P.C.

CERTIFICATION BY COUNSEL

BRUCE J. LAZAR, attorney for Wayne County, does hereby  
certify and represent to the Court:

1. I am attorney for Wayne County in this matter.
2. On or about October 27, 2003, an Order was entered in the National Steel Corporation bankruptcy proceeding by the United States Bankruptcy Court, Northern District of Illinois, Eastern Division, authorizing a settlement by which National Steel would pay the Wayne County Treasurer the sum of \$13,580,824.43 to settle all tax liability for real and personal property taxes for the tax years 2002 and 2003.

COUZENS, LANSKY, FEALK, ELLIS, ROEDER & LAZAR, P.C.

3. Of the sum to be received by the Wayne County Treasurer, \$2,500,728.18 was to be for the benefit of the City of Ecorse, and \$2,884,246.59 was to be for the benefit of the City of River Rouge.

4. The payout was expected to be received on Wednesday, November 5, 2003.

5. In fact, a portion of the payment was received in October 31, 2003, and the balance is expected to be received by the Wayne County Treasurer on Monday, November 3, 2003.

6. On October 24, 2003, the undersigned provided written notices to the Wayne County Treasurer that the County of Wayne claimed certain amounts due and owing from the cities of River Rouge and Ecorse on the CSO Basin and the Downriver Sewage Systems and requested that the Treasurer retain sufficient funds to pay Wayne County the amounts claimed.

7. The Wayne County Treasurer indicated late Friday afternoon, October 31, 2003, that unless an order enjoining or restraining him from disbursing the funds in his possession was served on him by Monday, November 3, 2003, he would disburse.


8. Due to the exigency of the circumstances, any delay in obtaining a temporary restraining order, including the necessity of providing adequate notice to the cities of River Rouge and Ecorse, would result in the disbursement of the funds thereby denying the County the very relief it seeks.

9. The delay in notice will be very short and Wayne County is requesting that a hearing be held on the issue as directed by the Court, which will protect and preserve the rights of the two cities.

10. Absent the issuance of an ex-parte temporary restraining order, the res which is the subject matter of this proceeding will be lost which will cause irreparable harm to the interests of Wayne County.

COUZENS, LANSKY, FEALK, ELLIS,  
ROEDER & LAZAR, P.C.  
Attorneys for Wayne County

By:

  
BRUCE J. LAZAR (P16475)  
39395 W. Twelve Mile, Suite 200  
Farmington Hills, MI 48331  
(248) 489-8600

Dated: November 3, 2003

O:\JLB\Bruce\County of Wayne\River Rouge\Certification

COUZENS, LANSKY, FEALK, ELLIS, ROEDER & LAZAR, P.C.